

**Introduced by Senator Dunn**

February 20, 2003

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An act to add Section 230.2 to the Labor Code, relating to employment.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 478, as introduced, Dunn. Victims of crime: work absences for judicial proceedings.

Existing law prohibits an employer from discharging or discriminating against an employee for taking time off to serve on a jury.

This bill would require that an employer allow an employee who is a victim of a crime, or certain persons who are related to a crime victim or who sustained a pecuniary loss as a result of an injury or death to a crime victim, to be absent from work in order to attend judicial proceedings related to the crime.

This bill would prohibit an employer from discharging, threatening, demoting, suspending, or in any manner discriminating or retaliating against an employee who is absent from work in accordance with these provisions, require reinstatement of the employee and reimbursement for lost wages and benefits, where applicable, and authorize the employee to file a complaint with the Division of Labor Standards Enforcement.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

SECTION 1. Section 230.2 is added to the Labor Code, to read:

230.2. (a) As used in this section:

(1) “Derivative victim” means an individual who sustains pecuniary loss as a result of injury or death to a victim.

(2) “Immediate family member” means spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather.

(3) “Registered domestic partner” means a domestic partner, as defined in Section 297 of the Family Code, and registered pursuant to Part 2 (commencing with Section 298) of Division 2.5 of the Family Code.

(4) “Victim” means a person against whom a crime has been committed.

(b) An employer, and any agent of an employer, shall allow an employee who is a victim of a crime, an immediate family member of a victim, a registered domestic partner of a victim, the child of a registered domestic partner of a victim, or a derivative victim to be absent from work in order to attend judicial proceedings related to that crime.

(c) Before an employee may be absent from work pursuant to subdivision (b), the employee shall give the employer a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice.

(d) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for an absence pursuant to subdivision (b). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(e) An employer shall keep confidential any records regarding the employee’s absence from work pursuant to subdivision (b).

(f) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee is absent for a purpose set forth in subdivision (b) shall be entitled to

1 reinstatement and reimbursement for lost wages and work benefits  
2 caused by the acts of the employer.

3 (g) (1) Any employee who is discharged, threatened with  
4 discharge, demoted, suspended, or in any other manner  
5 discriminated or retaliated against in the terms and conditions of  
6 employment by his or her employer because the employee has  
7 exercised his or her rights as set forth in subdivision (b) may file  
8 a complaint with the Division of Labor Standards Enforcement of  
9 the Department of Industrial Relations pursuant to Section 98.7.

10 (2) Notwithstanding any time limitation in Section 98.7, an  
11 employee filing a complaint with the division based upon a  
12 violation of subdivision (a) shall have one year from the date of  
13 occurrence of the violation to file his or her complaint.

14 (h) The prosecutor, or an agent of the prosecutor, shall inform  
15 a victim of this section.

